IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4411 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SOLANKI VINUBHAI GABABHAI - Petitioner
Versus
STATE OF GUJARAT & 1 - Respondents

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Appearance :
MS KJ BRAHMBHATT for Petitioner : 1,
MR UMANG OZA AGP for Respondents : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 05/07/2007

ORAL JUDGMENT

1. The petitioner has preferred this petition under Article 226 of the Constitution of India seeking issuance of writ of mandamus or any other writ, order or direction for quashing and setting aside the order dated 1.1.1987 passed by the respondent No.2, whereunder, the petitioner's appointment as Pracharak was discontinued on completion of two years.

2. This Court (Coram: R.K.Abichandani, J.)(as he then was) vide order dated 26.12.1990 was pleased to issue Rule and admit the matter and it was ordered to be heard with Special Civil Application Nos. 3585 of 1987 and 5415 of 1987. There were other matters of similar nature, which were dispose of. However, this matter was left out and therefore, it had remained to be decided. Ms. Brahmbhatt, learned counsel for the petitioner has submitted that the case of the petitioner is slight different then other persons because in case of present petitioner, no interim relief was granted to the petitioner and his services were terminated and in case of others, their services were protected and they continued in service. Ms. Brahmbhatt further submits that State had preferred Letters Patent Appeal, which came to be disposed of by the Division Bench of this Court (Coram: G.S.Singhvi & A.S.Dave, JJ..) vide judgment and order dated 6.10.2005.

3. The present petitioner is not similarly situated as in his case, services had already been terminated. However, as submitted by Ms. Brahmbhatt, learned counsel for the petitioner, he be given liberty to approach the respondent

Nos. 1 and 2 with representation seeking similar treatment and benefits under the Scheme, which is devices so far as de-existing Pracharaks are concerned.

4. Shri Oza, learned AGP submits that if such representation is made, the same would be decided in accordance with law, if in case the benefits of the scheme is available and admissible to the petitioner, then, they have no objection to any such direction that may be given by this Court.

5. In view of this, this petition deserves to be disposed of with a direction that it would be open to the petitioner to approach the respondent Nos. 1 and 2 with appropriate representation for availing the benefits under the Scheme and the respondent Nos. 1 and 2 is hereby directed to decide the said representation on its own merits within a period of 8 weeks from the receipt of said representation. With this direction, petition is disposed of. Rule is discharged. There shall be no order as to costs.

(S.R.BRAHMBHATT, J.)

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